

**REMARKS/ARGUMENTS**

Reconsideration and allowance of this application are respectfully requested. Currently, claims 1-13 are pending in this application.

**Double Patenting Rejection:**

Claims 1-6 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3 and 6 of U.S. Patent No. 6,735,396 in view of Onaka et al (U.S. '804, hereinafter "Onaka"). Attached hereto is a timely filed Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome this double patenting rejection. The filing of this Terminal Disclaimer to obviate this double patenting rejection should not be construed as an admission of the propriety of the rejection.

Accordingly, Applicant respectfully requests that the rejection of claims 1-6 under the judicially created doctrine of obviousness-type double patenting be withdrawn.

**Rejection Under 35 U.S.C. §101:**

Claim 8 was rejected under 35 U.S.C. §101 because "the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process...." By this Amendment, claim 8 has been amended to positively set forth process steps. Applicant therefore respectfully requests that the rejection of claim 8 under 35 U.S.C. §101 be withdrawn.

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**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings include changes to Figs. 1-4 and 7-8.

These sheets, which include Figs. 1-4 and 7-8, replace the original sheets including these figures. Block diagram 18 has been labeled as “Detector” in Figs. 1-2 and 4, block diagram 14 has been labeled “Delay” in Fig. 7, previously omitted label “Prior Art” has been added to Fig. 3, and an extraneous block in Fig. 8 has been deleted.

Attachment: Replacement Sheet(s)  
Annotated Sheet Showing Changes

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**Rejection Under 35 U.S.C. §112:**

Claims 3 and 6-8 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 3 and 6 have been amended in accordance with the Examiner's helpful suggestion. As noted above, claim 8 now requires positively recited process steps. Applicant therefore respectfully requests that the rejection of claims 3 and 6-8 under 35 U.S.C. §112, second paragraph, be withdrawn.

**Allowable Subject Matter:**

The Office Action indicated that claims 2, 4 and 5 contain allowable subject matter. Claim 2 has been rewritten in independent form. Claims 4 and 5 remain dependent from claim 2. Claims 2 and 4-5 are therefore allowable.

The Office Action also indicated that claim 7 would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. Claim 7 has been rewritten in independent form including the limitations of still pending base claim 6. Claim 7 is in full conformance with 35 U.S.C. §112, second paragraph. Claim 7 is therefore allowable.

**Rejection Under 35 U.S.C. §103:**

Claims 1, 3 and 6 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Miura et al (hereinafter “Miura”)<sup>1</sup> in view of Onaka. Applicant respectfully traverses this rejection.

In order to establish a prima facie case of obviousness, all of the claimed limitations must be taught or suggested by the prior art and there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings.

The combination of Miura and Onaka fails to teach or suggest all of the claimed limitations. For example, the combination fails to teach or suggest a method of correcting for timing jitter of an optical data pulse in an optical transmission system, the method including passing an optical output pulse through a suitably optically dispersive medium so that the optical pulse is correctly retimed to compensate for the jitter of the optical data pulse, as required by independent claim 1. Similar comments apply to independent claims 3 and 7.

Miura relates to the generation/investigation of x-rays, and in particular relates to the investigation and measurement of timing jitter. In marked contrast, the present invention relates to correcting timing jitter of an optical data pulse in

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<sup>1</sup> The Form PTO-892 apparently indicates that the publication date of Miura is in the range of August 30 - September 3, 1999. The present application is entitled to priority rights based on Great Britain application no. 9907496.5 filed March 31, 1999 (i.e., before the indicated August 30 - September 3, 1999 publication of Miura). The receipt of the priority document has been acknowledged by the USPTO. Accordingly, it is believed that Applicant has perfected its foreign priority claim under 35 U.S.C. §119. It appears that Miura is therefore not “prior art” with respect to the present application.

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an optical transmission system. While Miura discloses evaluating jitter using a chirped pulse, Miura fails to teach or suggest correcting the jitter, let alone correcting the jitter using a suitably dispersive optical medium as required in the present invention. The purpose of the Miura system is to investigate the jitter mechanism. From reading Miura, one skilled in the art would not understand that jitter is undesirable, and therefore would not have been motivated to correct for the jitter.

Like Miura, Onaka fails to teach or suggest correcting for timing jitter of an optical pulse in an optical transmission system. Onaka is concerned with compensating for dispersion, rather than correcting for timing jitter. Since neither Miura nor Onaka is even concerned with correcting for timing jitter, the hypothetical combination would not have taught or suggested such as feature.

There is no teaching, suggestion or motivation to one of ordinary skill in in Miura and/or Onaka to correct for timing jitter. The system of Miura only allows one skilled in the art to evaluate the extent of timing jitter. Even if the timing jitter known from Miura, Onaka is silent as to how this information can be used to correct the jitter. Rather, the dispersion shifted fiber in Onaka is present for solving a different problem, namely speeding up previously retarded wavelength components, and conversely retarding early arriving components. There is therefore no motivation for one of ordinary skill in the art to combine the teachings of Miura and Onaka.

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Accordingly, Applicant respectfully submits that claims 1, 3 and 6 are not "obvious" in view of Miura and Onaka and thus Applicant respectfully requests that the rejection of these claims under 35 U.S.C. §103 be withdrawn.

**New Claims:**

New claims 9-13 have been added to provide additional protection for the invention. Applicant submits that new dependent claims 9-13 are at least allowable by virtue of their dependency from their respective base claims discussed above.

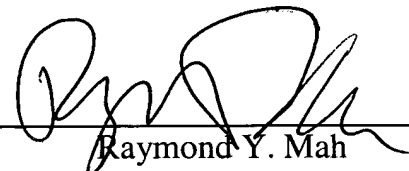
**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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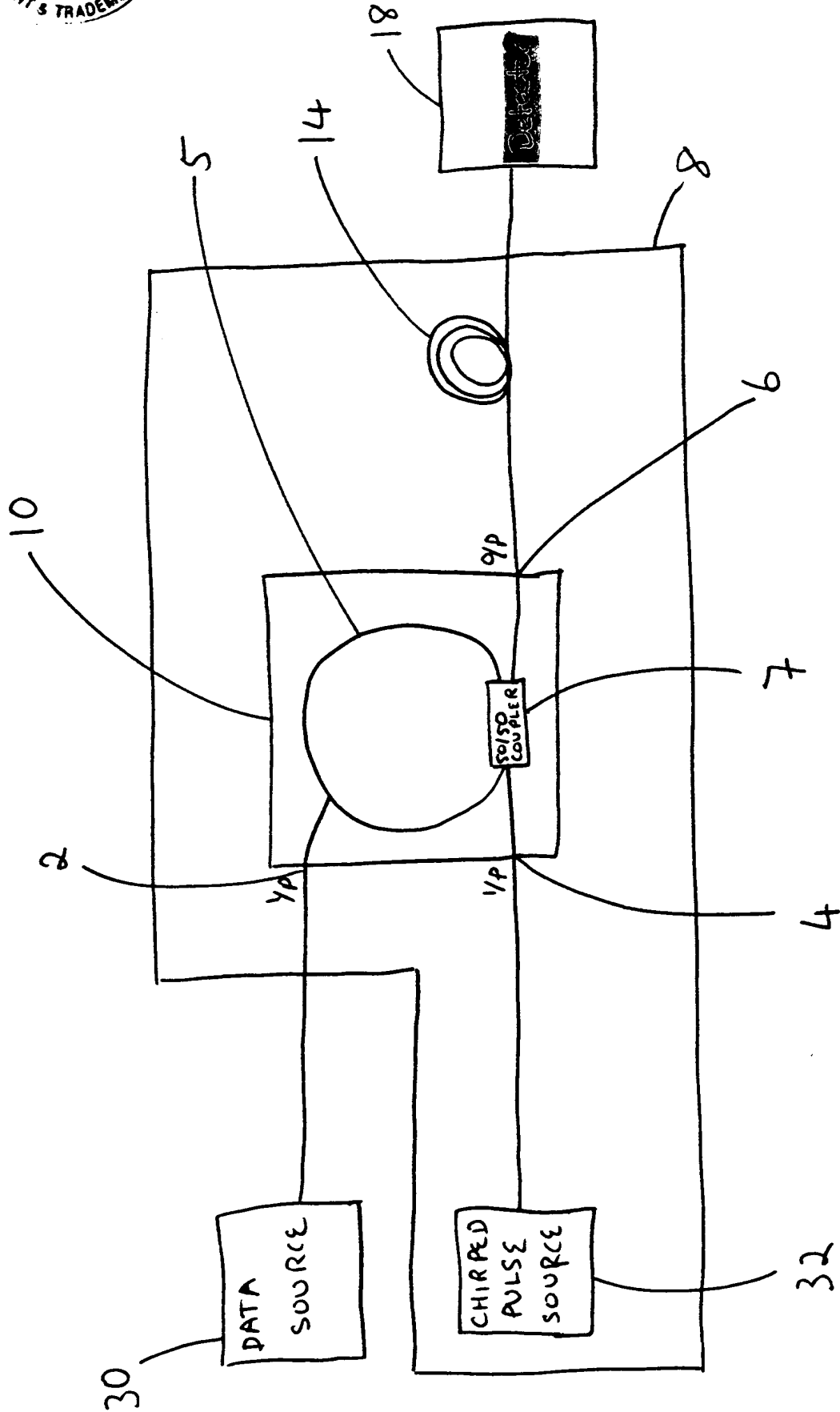
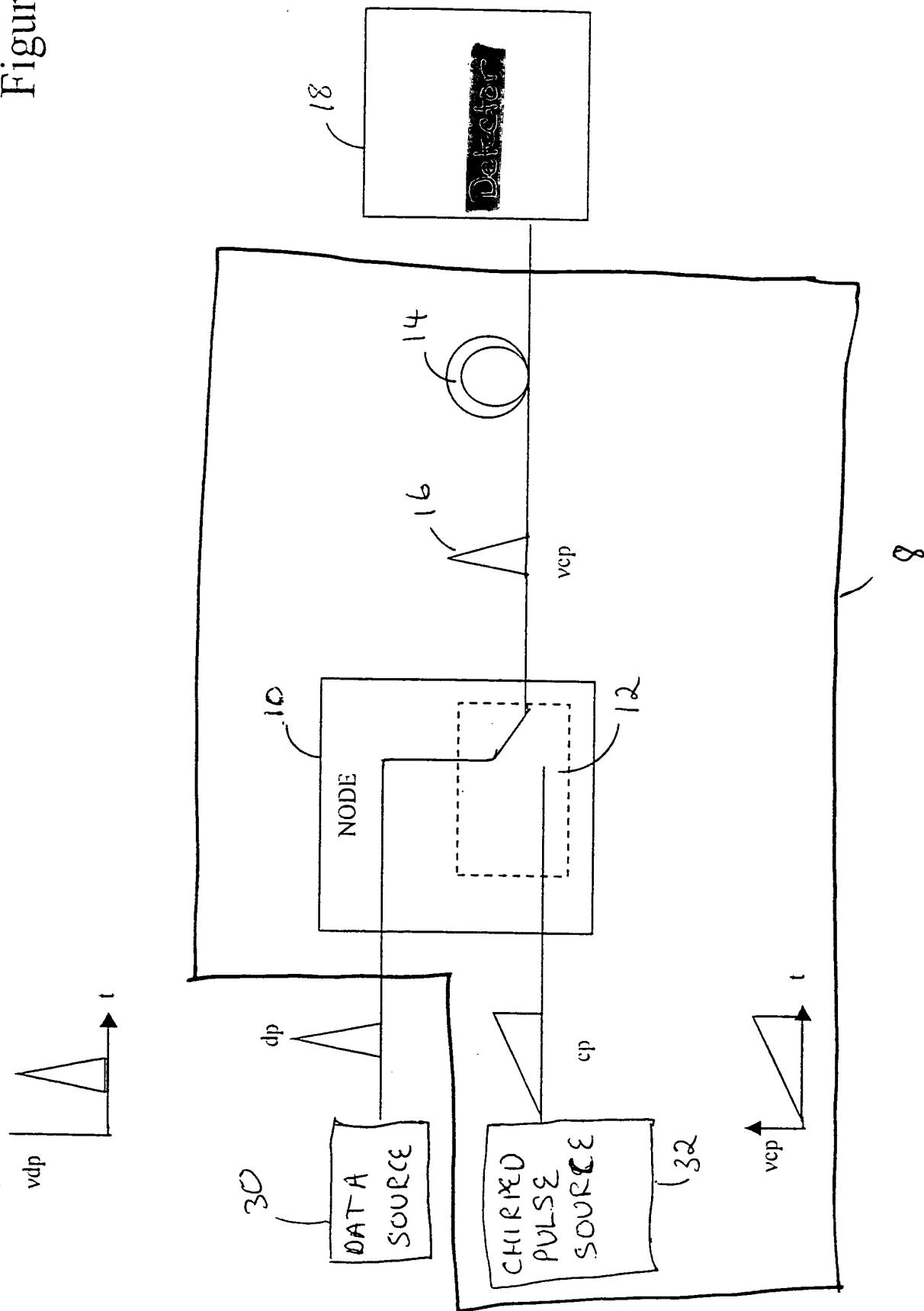


Figure 1

Figure 2





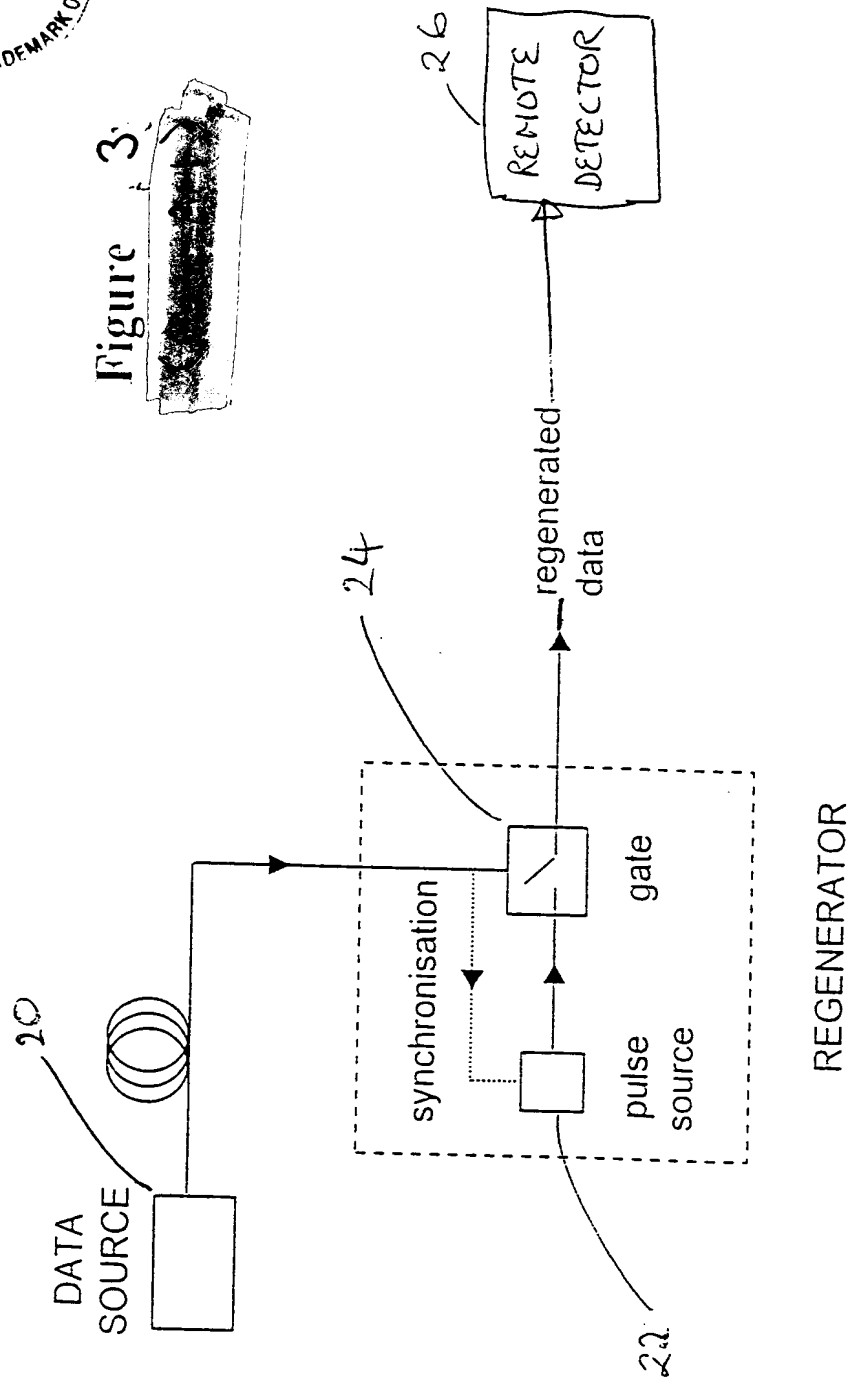
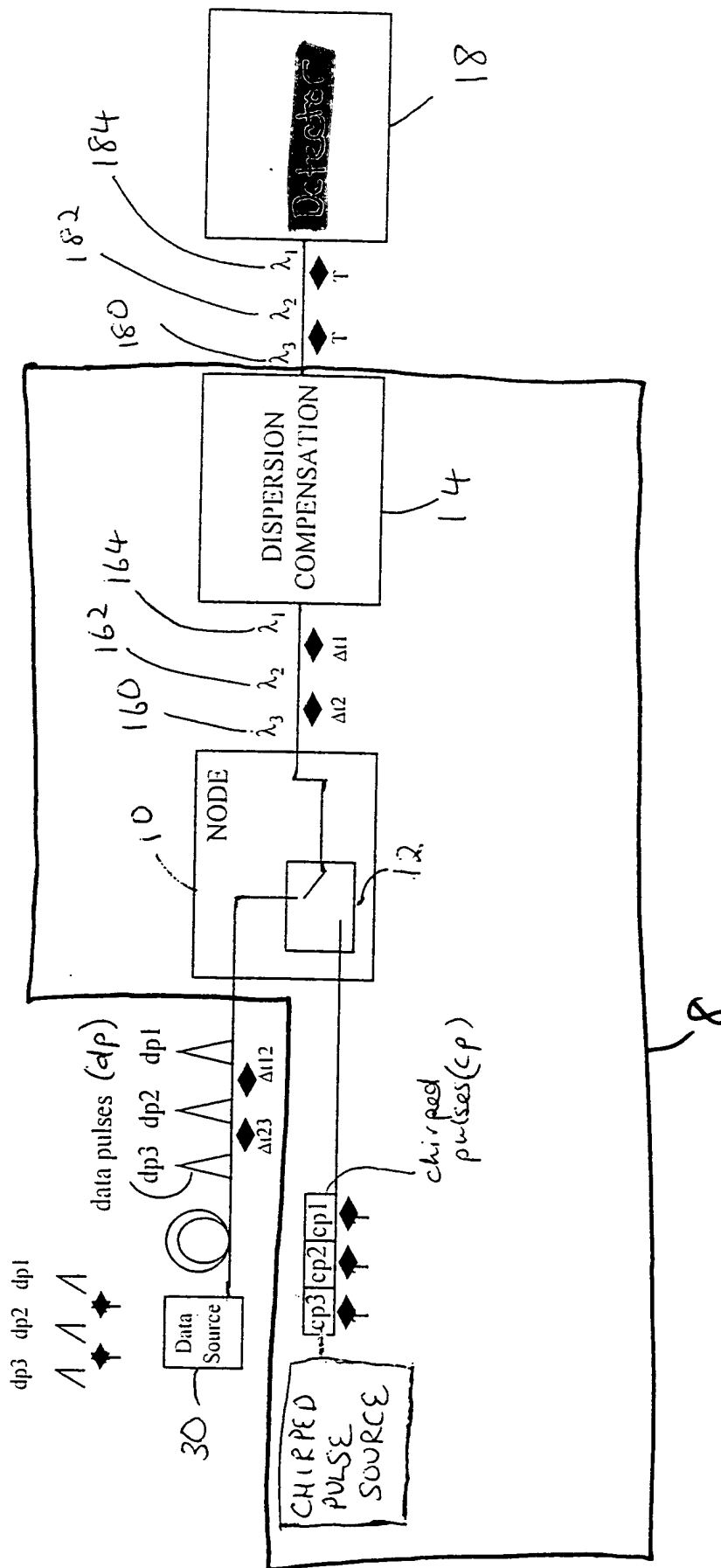


Figure 4



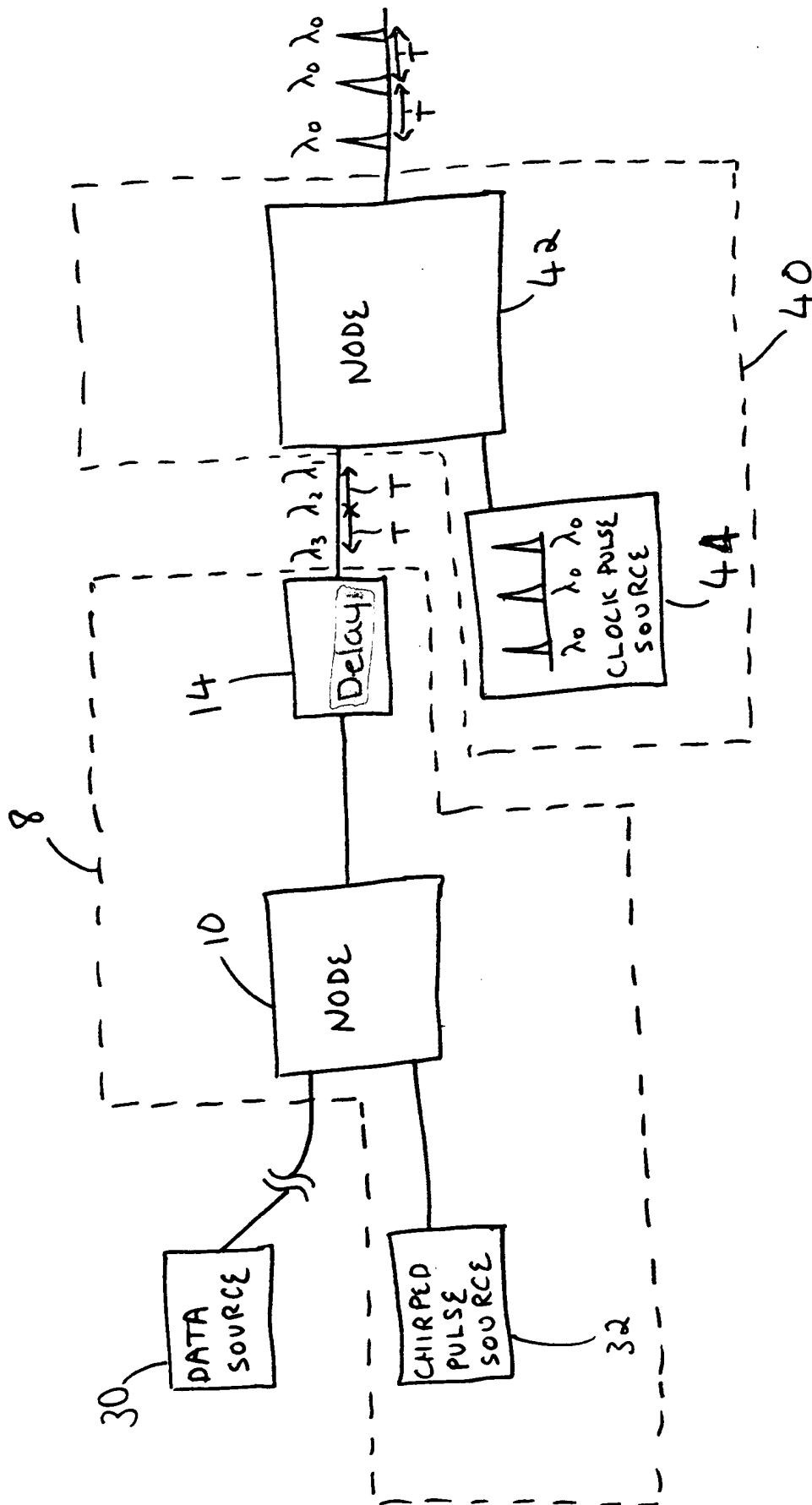


Figure 7

Figure 8

